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Family Rights

Introduction

When the U.S. Congress passes a law, it is called a Public Law and is given a number. In 1975, Congress passed a law called P.L. 94-142 (Education for All Handicapped Children Act), that said children of school age with disabilities had a right to education. Due to that law, special education services were created. In 1986, congress amended P.L. 94-142 with P.L. 99-457 that said that children with disabilities in participating states have a right to education services starting at birth. An amendment in 1990 changed the name of the law to the Individuals with Education Act (IDEA). Kentucky is providing early intervention services to these infants and toddlers through the program called First Steps, Kentucky's Early Intervention System. In 1997 P.L. 105-17 amended IDEA.

The two most important parts of that law are:

1. Infants and toddlers, ages birth to three, have a right to education services usually called early intervention services.
2. Parents/guardians must be involved in all decisions. The family's resources, priorities and concerns are the most important factors in planning and carrying out early intervention services. In order to ensure that you are fully involved, the law requires First Steps to follow procedural safeguards. This means that for every procedure, such as evaluation or service planning, your rights are safeguarded. This handbook presents the rights to those procedures. If for any reason you do not understand any part of this material, you may call 1-502-564-3756 ext. 3742.

First Steps has formed seven University-Based Technical Assistance Teams (TA Teams). These teams are made up of a Program Consultant and a Parent Consultant. The Parent Consultant can be extremely helpful in answering your questions or addressing any parts of this handbook, since they have a child who has experienced a developmental delay and may have used First Steps services. A list of how to reach the Parent Consultant closest to you is on the back of this booklet.

Family Rights

DEFINITIONS

ADVOCATE: Someone who helps you understand and decide what services your child may need.

AMENDMENT: Any changes to your child's Early Intervention Permanent Record.

ASSESSMENT: Planned activities that any service provider would do to learn your child's needs in order to plan their program activities.

CONFIDENTIALITY: Keeping information about you and your child private.

DUE PROCESS: The official process to hear your complaints about any First Steps service.

EARLY INTERVENTION: Services for children ages birth to three who have a medical condition that causes a developmental delay or shows on the evaluation a developmental delay. These specialized services are designed to help a child overcome that developmental delay.

EVALUATION: Standardized testing tools given to your child to see if he/she would be eligible for First Steps services.

FAMILY RIGHTS HANDBOOK: The handbook that explains your rights as a parent of a child in the First Steps Program.

FIRST STEPS: The name of Kentucky's early intervention program. Also known as Part C of P.L. 105-17.

INDIVIDUALIZED FAMILY SERVICE PLAN(IFSP): The plan that you and those who provide First Steps services to your child, would write to show what services your child will receive and how those services will help your child overcome his/her delay.

MEDIATION: An informal process to hear your complaints about any First Steps services.

MULTIDISCIPLINARY: Using more than one professional (i.e. Speech Therapist, Physical Therapist, Primary Service Coordinator) to develop the IFSP or do any of the First Steps services.

PERMANENT RECORD: Your child's official First Steps Early Intervention Record.

POINT OF ENTRY (POE): The office that helps all families in your area learn about First Steps services. The POE also helps the family get the evaluation done to determine if their child will be eligible for First Steps.

PRIMARY SERVICE COORDINATOR: The person who will help you write the IFSP's for your child and will help you learn about other services that may be available in your area.

RECORD REVIEW: The process to request services for your child beyond the prior authorized service guidelines in the First Steps regulations.

TECHNICAL ASSISTANCE TEAM: The University-Based team in your area that can help answer questions, listen to your concerns and take your suggestions. They can also help you learn about any resources or training in your area. This team is made up of a Program Consultant and a Parent Consultant. See enclosed map.

Family Rights

A. Summary of Rights

First Steps, Kentucky's Early Intervention System, makes sure that your family has the following rights which are protected by Public Law 99-457:

- The right to a timely, multidisciplinary evaluation and assessment.
- The right to those early intervention services entitled and identified on the Individual Family Service Plan, if your child is eligible under Kentucky's definition for First Steps services, including using the Record Review process to determine those services.
- The right to refuse any, part, or all services without losing other First Steps services or future First Steps services.
- The right to a written notice before a change is made in our child's First Steps services.
- The right to keep private the personal information in your child's record.
- The right to a written notice and written permission to share your child's personal information with others.
- The right to review all records and to request a change in those records if you feel they are incorrect.
- The right to bring an advocate, friend, other family member or attorney to any or all dealing with First Steps.
- The right to have your complaints heard either through the Program Evaluator, Mediation, Due Process or the Court.

B. Services

Requests for services beyond the prior authorized service guidelines in the First Steps regulations (Record Review process).

The First Steps Program (911 KAR 2:200) allows a certain amount of services without having to get prior authorization. Children who need only one kind of therapy can receive up to 24 hours of that therapy every six months. This is about 1 hour of therapy a week. Children who need more than one kind of therapy can receive up to 36 hours every six months. This is about 1 ½ hours a week. Children who need group services can also receive up to 2 hours a week of group.

If your IFSP team thinks your child needs more than the prior authorized therapy (listed above), you can ask for extra services through the Record Review process. This Record Review Process can be very time consuming. Make sure your IFSP is done in enough time to complete the Record Review Process, so needed services can continue. If it is not, you may need to file a Due Process request to maintain those services.

Your IFSP team must send your request to the Record Review Team. Your Primary Service Coordinator will put together the request and send it to the Record Review Team for review. The Team should give you its response in about two weeks.

If your IFSP team disagrees with the Record Review Team's recommendations, you can have a further review by the First Steps Central Office. The Central Office will then review your request. It will give you its decision about a week after it gets your request.

If your IFSP team disagrees with the Central Office recommendations and still thinks your child needs extra services, you can schedule another IFSP meeting to talk about it. A member of the Record Review Team can attend this IFSP meeting, as well as the First Steps Coordinator (or their representative). If your IFSP team decides that extra services are still needed, First Steps will provide them.

Family Rights

II. First Steps Services:

- **Evaluation and Assessment:** Evaluation for the purpose of determining eligibility and assessment for the purpose of service planning.
- **Service Coordination:** The Service Coordinator works with the family to coordinate implementation of the Individual Family Service Plan and to access community services.
- **Individual Family Service Plan:** The IFSP is the plan determined by the service team, including the parents, and outlines the services to be received by the family.
- **Developmental Intervention:** Include services that provides families with information, skills and support related to enhancing the skill development of the child in the areas of physical, social, emotional, communicative and cognitive development.
- **Occupational Therapy:** Therapy designed to improve your child's ability to socialize, pay attention, play, eat, dress, and perform toileting and grooming tasks.
- **Physical Therapy:** Therapy that enhances muscle and motor development.
- **Speech Therapy:** Therapy that works to improve your child's speech and ability to communicate with others.
- **Health Services:** Include Medical Services that are for diagnostic or evaluation purposes; and Nursing Services to promote optimal health and development.
- **Nutrition:** Development and monitoring appropriate plans to address the nutritional needs of the child.
- **Sensory Development:** Include vision services that enhance the visual development of the child; and auditory services that ensure the auditory functioning of the child.
- **Respite:** Temporary, short-term care to provide relief to families from the responsibility of caring for their child.
- **Assistive Technology:** Providing devices to increase, maintain or improve the functional capabilities of the child.
- **Transportation:** Cost of travel and related costs to those who are in need of transportation that is necessary to enable the child and his/her family to participate in and receive First Steps services.

Family Rights

III. Records and Confidentiality

Information about your child and your child's First Steps Early Intervention Record is private and may only be reviewed by you and other authorized persons, such as First Steps personnel, unless you give your **written** permission for others to review the Record. You have the right to:

- Review and inspect your child's First Steps Early Intervention Permanent Record.
- Know that your child's First Steps Early Intervention Permanent Record is kept at your local Point of Entry office.
- Know that your child's First Steps Early Intervention Permanent Record will be stored for up to ten (10) years following your child's exit from First Steps. This Record, except the Primary Service Coordination Discharge Summary, will be destroyed on that tenth (10th) anniversary, unless you request in writing, that it be destroyed earlier.
- Have all your questions answered about your child's First Steps Early Intervention Permanent Record, or have someone of your choice review that Record for or with you.
- Be informed, inspect and review the information concerning your child if his/her name appears in another child's First Steps Early Intervention Permanent Record.
- Request an amendment to your child's First Steps Early Intervention Permanent Record if you believe the information is inaccurate, misleading or violates the privacy or rights of your child. Should the agency refuse to amend the part of the Record you wanted changed, you must be informed of the decision and told of your right to Mediation or Due Process. Even if the Hearing Officer decides that the information should stay in the First Steps Early Intervention Permanent Record, your statement of disagreement must also stay in that Record and be available to anyone who looks at that Record.
- There is **no** cost for you to review your child's record.

Family Rights

IV. When You Think Your Child's Rights have Been Violated.

Mediation

Mediation is an informal process in which an impartial person helps parties who don't agree to resolve their differences and find an answer satisfactory to all sides. The agreement developed is put in writing, and the parties agree to follow it. However, they are under no legal obligation to do so.

- Mediation is voluntary and can be chosen first if there is a disagreement between parties.
- Mediation does not have to be chosen before a formal Due Process hearing. (see page 5)
- Services must continue, unless you as parent/guardian choose not to continue services. If the complaint involves the request for initial services, your child must receive the services not in question.
- You or the party involved may waive the mediation. If the party involved waives mediation, as parent/guardian you must be notified within two working days of this decision.

To request Mediation:

1. You as parent/guardian may request mediation at any time you feel there is a problem that needs resolution.
2. Request mediation by completing the form in the back of this booklet and sending it to the Director, Administrative Hearing Branch, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.
3. Mediation must be completed within thirty (30) working days of the receipt of the request for mediation by the Cabinet for Health Services. If resolution is not reached within the thirty (30) days, you must be informed of your rights to a Due Process Hearing .
4. At any time during the mediation process, you may request that a Due Process hearing be initiated.
5. Either party may request that the mediator grant an extension. This extension will be granted if there is a good cause (exceptional circumstances). An extension may not be longer than 30 calendar days unless the party who asked for the mediation agrees to a longer period of time.
6. Mediation resolutions may not conflict with state or federal laws and must be to the satisfaction of both parties. Both parties must sign the written resolution to prove their satisfaction with the resolution.
7. A copy of the written resolution shall be mailed by the mediator to each party within five (5) calendar days following the mediation conference. A copy shall also be filed by the mediator with the Cabinet for Health Services.

Family Rights

Due Process

Due Process is a hearing that is a formal administrative process in which the parties present evidence to an impartial hearing officer, who makes a decision based on the hearing officer's understanding of the facts and the law at issue. Decisions from a hearing officer are in writing and are binding unless appealed through the Court process.

- A hearing may not be conducted :
 - by a person who is an employee of a public agency which is involved in the education or care of the child; or
 - by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.
- During the waiting period of any administrative or judicial process regarding a complaint, unless the public agency and the parent/guardian of the child agree otherwise, the child involved in the complaint must remain in his or her present placement.
- If the complaint involves a request for initial admission to an intervention program, the child, with the consent of the parent/guardian, must be placed in the program until the complaint process is completed.
- Any free or low-cost legal and other relevant services will be made known to the parent/guardian by the Service Coordinator within a reasonable time after requesting a hearing.

Family Rights

To request a **Due Process Hearing**:

1. You as parent/guardian may request a hearing any time by completing the form at the back of this booklet and sending it to the Director, Administrative Hearing Branch, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.
2. A hearing will be scheduled at a time and place that are reasonably convenient to you and your child.
3. At the Due Process Hearing you may:
 - Be accompanied and advised by counsel and/or by individuals with special knowledge or training with respect to problems of children with developmental delays.
 - Present evidence and confront, cross-examine and request the attendance of witnesses.
 - Stop the introduction of any evidence at the hearing that has not been made known to you at least five days before the hearing.
 - Obtain an electronic word-for-word record of the hearing upon written request.
 - Obtain written results of the decisions.
 - Have the child who is the subject of the hearing present.
 - Open the hearing to the public.
4. A final decision will be reached in the hearing and a copy of the decision will be mailed to each party within forty-five (45) days after the receipt of the request for a hearing.
5. The hearing officer may grant specific extensions of time beyond the forty-five (45) days at the request of either party.
6. A decision made in the hearing is final unless either party appeals to the Court.

For more information on any part of this booklet, contact:

Cabinet for Health and Family Services
Department for Public Health
Part C Coordinator
275 East Main St., HS2W-C
Frankfort, KY 40621
1-502-564-3756

REQUEST FOR MEDIATION

TO: Director
Administrative Hearing Branch
Cabinet for Health Services
275 East Main Street
Frankfort, KY 40621

FROM: _____
Please print or type Parent/Guardian

DATE: _____

PURPOSE: To formally request an impartial Mediation Meeting.

Please print or type, in your own words, your complaint or concern regarding your child enrolled in the First Steps Program: (Use back of sheet for more information)

I hereby request an impartial Mediation meeting on the appropriateness of services offered by _____ for my child.
Name of Agency or Person

Mailing Address, City, State, Zip and Phone

I understand that I will be contacted as to the date, time and place of the Meeting.

Name of Child

Signature of parent or Legal Guardian

Date of Birth

Mailing Address

Phone

City, State, Zip

REQUEST FOR DUE PROCESS HEARING

TO: Director
Administrative Hearing Branch
Cabinet for Health Services
275 East Main Street
Frankfort, KY 40621

FROM: _____
Please print or type Parent/Guardian

PURPOSE: To formally request an impartial Due Process Meeting.

Please print or type, in your own words, your complaint or concern regarding your child enrolled in the First Steps Program: (Use back of sheet for more information)

I hereby request an impartial Due Process Hearing on the appropriateness of services offered by

_____ for my child.
Name of Agency or Person

Mailing Address, City, State, Zip and Phone

I understand that I will be contacted as to the date, time and place of the Hearing.

Name of Child

Signature of parent or Legal Guardian

Date of Birth

Mailing Address

Phone

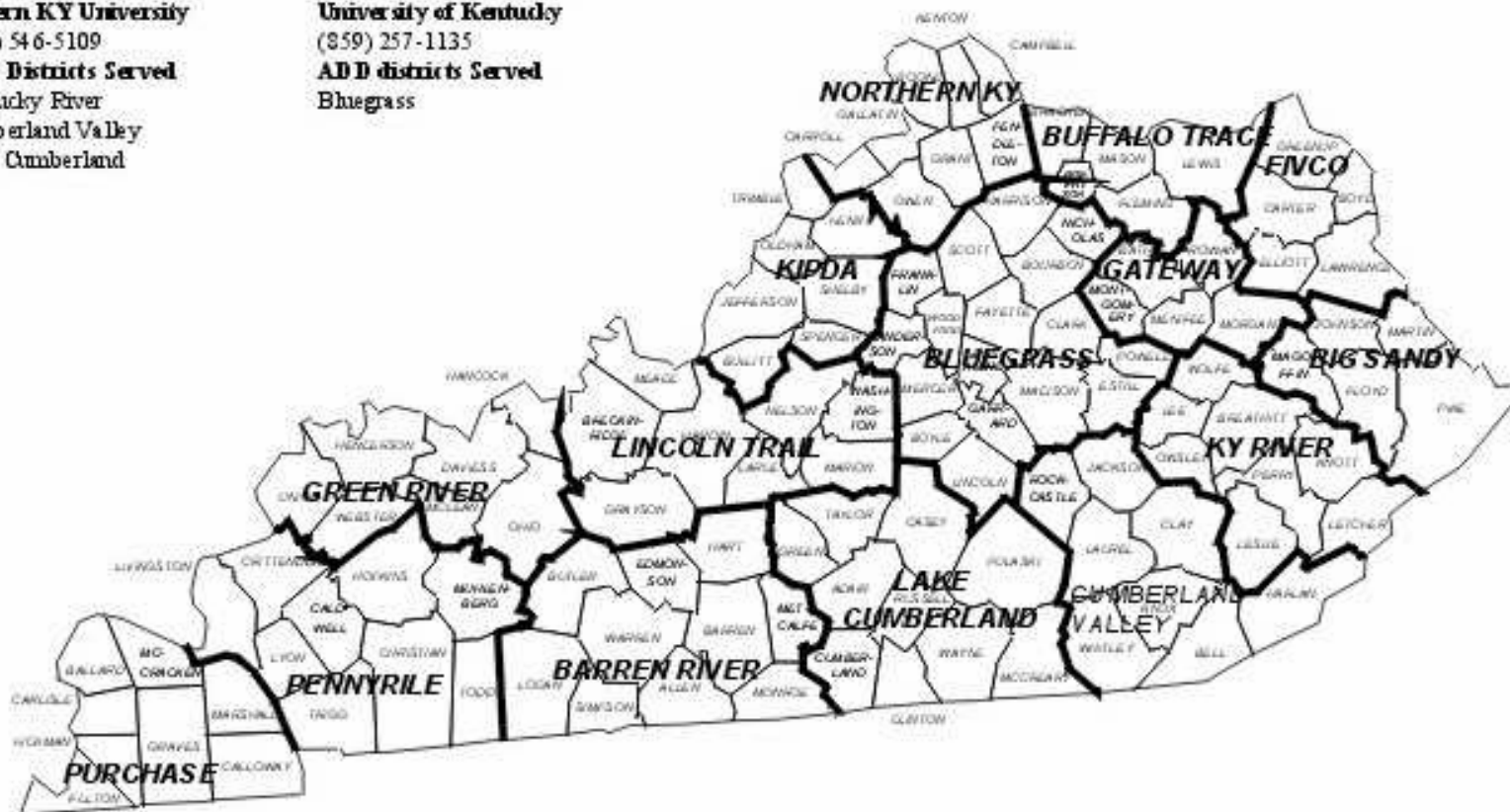
City, State, Zip

(Rev. 3-05)

1-800-442-0087

ADD Districts Served
FIVCO
Gateway
Big Sandy

ADD districts Served
Bluegrass



FIRST STEPS
KENTUCKY'S EARLY INTERVENTION SYSTEM
A Statewide Technical Assistance Network

1-800-442-0087

PROGRAM EVALUATION SPECIALISTS

(Rev. 3-05)

1-800-442-0087

Murray State University
(270) 762-6828
ADD Districts Served
Purchase
Pennyrite

Western Kentucky University
(270) 745-8866
ADD Districts Served
Green River
Barren River

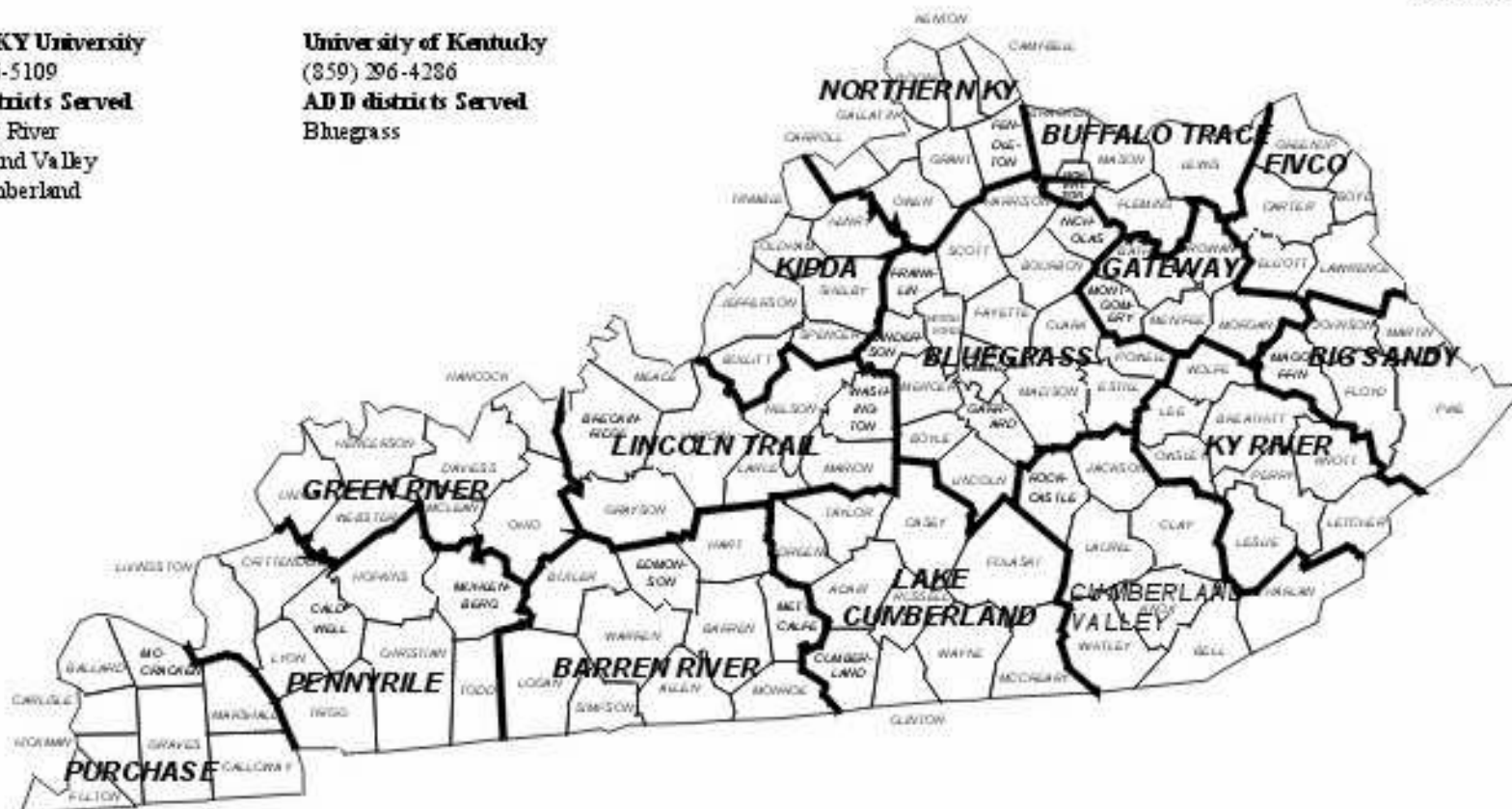
University of Louisville
(502) 852-4573
ADD Districts Served
Kentuckiana
Lincoln Trail

Northern Kentucky
(859) 564-4580
ADD Districts Served
Northern Kentucky
Buffalo Trace

Morehead State University
(606) 783-9454
ADD Districts Served
FIVCO
Gateway
Big Sandy

Eastern KY University
(606) 546-5109
ADD Districts Served
Kentucky River
Cumberland Valley
Lake Cumberland

University of Kentucky
(859) 296-4286
ADD districts Served
Bluegrass



FIRST STEPS
KENTUCKY'S EARLY INTERVENTION SYSTEM
A Statewide Technical Assistance Network